

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES POLICY AND PROCEDURES		P & P No. 80-4000	Page 1 OF 3
SUBJECT Transfer of Responsibilities Agreement		Effective Date November 9, 1982	
		Supersedes P & P No. new	Dated
		APPROVED BY <i>[Signature]</i>	
DIVISION Deputy Commissioner	SECTION Policy & Procedures	CHAPTER TITLE Municipal Projects	

PURPOSE:

To establish a consistent Statewide Policy and Procedure that administratively implements AS 35.15.080-.120 providing for local control of State public works projects.

POLICY:

It shall be the policy of this Department to maintain consistent Statewide policy and procedures that provide for local control of State public works projects as authorized by AS 35.15.080-.120. When a borough, municipality, or incorporated community, (hereinafter called the municipality) by resolution of its governing body, requests the assumption of all or part of the Department's responsibilities for the planning and design & construction of a State public works project and the State concurs that assumption of the Department's responsibility is practicable and in the best interest of the State, an Agreement will be drawn up and forwarded to the Deputy Commissioner of Planning & Programming for approval and signature.

DISTRIBUTION:

All holders of the Administrative, Design & Construction, Maintenance & Operations, Planning & Programming manual and all Planning & Programming personnel.

Procedures:

GENERAL:

This policy and procedure does not address every aspect of AS 35.15.080-.120 nor all regulations issued thereunder. Anyone preparing to enter into a Transfer of Responsibilities Agreement (TORA) with a municipality must also read and be familiar with the above referenced statutes and regulations.

If the Department determines that the assumption of the Department's responsibilities relating to the planning, design and construction of the public works project is not practicable or in the best interest of the State, the Commissioner shall notify the governing body of the municipality of his findings and specify the reasons for it. If the governing body requests reconsideration of the decision, a public hearing shall be held in the municipality within 30-days of the request for reconsideration. Following the hearing, the Commissioner may affirm, modify or reverse his initial decision, and shall specify in writing the reasons.

If the State agrees that the assumption of the State's responsibility for the project is practicable and in the best interest of the State, an Agreement called a Transfer of Responsibilities Agreement will be initiated. This Agreement transfers the funds appropriated, and the Department's responsibilities for the project to a municipality when the municipality formally requests this transfer. Standard Agreements approved by the Deputy Commissioner, Planning & Programming, will be used for all TORA projects. These standard TORAs provide necessary safeguards for the State and contain all the requirements specified.

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES POLICY AND PROCEDURES		P & P No.	Page
		80-4000	2 OF 3
SUBJECT TRANSFER OF RESPONSIBILITIES AGREEMENT		Effective Date 11/9/82	
		Supersedes P & P No.	Dated
		APPROVED BY <i>[Signature]</i>	
DIVISION Deputy Commissioner	SECTION Policy & Procedures	CHAPTER TITLE Municipal Projects	

in AS.15.080-.120. These Agreements will be used unless a unique one-time condition exists. In this case, the standard format may be modified to meet the unique condition. Any change to the standard Agreements must be done with care not to eliminate any of the safeguards and statutory requirements built into the standard Agreements. Changes to the standard Agreements must be approved by the Regional Director, Planning & Programming.

SCOPE OF WORK:

The Scope of Work included in the Agreement must be within the Legislative intent. It must be specific in detail in what is to be done to ensure the municipality accomplishes what was intended by the appropriation.

MAINTENANCE AND OPERATIONS:

The Agreement must address who will maintain and operate the facility when the project is completed.

Federal Funding:

If Federal funds are included in the project, it must be determined if the funds may be passed on to a local government and/or if the Federal agency must review and approve the TORA. There will also be an article included in the TORA which requires the municipality to comply with all Federal regulations relating to the use and expenditure of the particular funds. In particular, the Federal agency may require the municipality to submit any proposed contracts to the agency for approval prior to awarding the contract.

PROJECT REVIEW:

Prior to the municipality entering into professional contract negotiations or advertisement for bids on construction contracts, the State must approve both the project site and the land interest in the site. The State will not accomplish technical review of the plans and specifications of a project that has been transferred to a local government for completion under a TORA Agreement. The review of plans and specifications will be limited to and comments made only in regard to compliance with the scope of work of the Agreement. The State does, however, retain the right to disapprove the plans and specifications if it is found that they do not comply with any special technical conditions set forth in the Agreement, or if some violation of statute, code or regulation is noted.

PAYMENT:

The method of payment will be a cash advance system to provide the municipality with funds needed to pay expenditures as they occur, except that a 5% retainage will be held until completion of audit or final acceptance of the project is made by the State. Standard payment schedules are included with each of the standard TORA as Appendix B to the Agreements. These may be modified to meet special needs of the project except that the 5% retainage will always be required.

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES POLICY AND PROCEDURES		P & P No. 80-4000	Page 3 OF 3
		Effective Date 11/9/82	
SUBJECT Transfer Of Responsibilities Agreement		Supersedes P & P No.	Dated
		APPROVED BY <i>[Signature]</i>	
DIVISION Deputy Commissioner	SECTION Policy & Procedures	CHAPTER TITLE Municipal Projects	

AMENDMENTS:

The TORA may be amended to expand or redefine the scope of work, within the legislative intent, to increase or decrease the funds available, or to change any other condition of the agreement. Projects done in phases should be done under the same transfer Agreement and project by amending the funding amount and scope of work as funds are appropriated or become available for subsequent phases of the project.

PROJECT NUMBER:

A Project Development Authorization (PDA) form will be processed for each TORA setting up a project number within the FMS system. All payments to the municipality and DOT/PF charges, if any, will be made against this project number.

APPROVAL:

The TORA signed by the local government, accompanied by the resolution of the governing body of the local government requesting local control of the project, and an encumbrance document will be forwarded to the Deputy Commissioner of Planning & Programming for approval and signature.

PROJECT INSPECTION:

A representative of the State will inspect each project for compliance with the scope of work of the Agreement and approve the final project documents prior to accepting the project and making final payment to the municipality.

AUDIT:

The state shall reserve the right to audit the project at any time during its accomplishment or within three (3) years following its completion. All TORA agreements over \$25,000 will require the municipality to provide for an independent audit of the completed project and to provide the audit report to the State. Agreement of \$25,000 and less should be made a part of the transactions considered for review in the municipality annual audit. The Internal Review Section shall develop audit guidelines for agreements under this P & P as well as prior agreements.

PROJECT COMPLETION AND FINANCIAL CLOSURE:

Upon notification by the municipality that the project, as described in the scope of work of the TORA, is complete and a final status and expenditure report, audit report, and all other documentation required by the Agreement have been received, the Agreement shall be amended indicating acceptance of the project by the State and acknowledgement of receipt of full payment by the municipality. The Agreement will remain in effect with respect to continuing conditions such as maintenance and operations responsibilities and public the use requirement. A PDA will be processed establishing a project cutoff date, stating disposition of any excess funds authorization, and closing the project financially in the Department's financial management system.